

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**BEFORE THE ARIZONA MEDICAL BOARD**

In the Matter of

**RICK J. GOMEZ, M.D.**

Holder of License No. **33677**  
For the Practice of Allopathic Medicine  
In the State of Arizona.

Case No. MD-11-1582A

**INTERIM ORDER FOR PRACTICE  
RESTRICTION AND CONSENT TO THE  
SAME**

**INTERIM CONSENT AGREEMENT**

Rick J. Gomez, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Interim Order for Practice Restriction; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

**FINDINGS OF FACT**

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 33677 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-11-1582A after receiving a complaint regarding Respondent's care and treatment of a 30 year-old female patient ("JH"). The case was reviewed by a Medical Consultant (MC) to evaluate the medical records from a standard of care perspective.

4. On December 29, 2009, JH was seen by Respondent for chronic myalgias, neck pain and back pain. The patient reported current use of MSContin 15mg, but there were no past medical records to document prior treatment, diagnostic work up, or her report of current use of MSContin. During his initial visit with the patient, Respondent initiated MSContin, Oxycodone and Xanax with three refills. Respondent, however, did

1 not review the Controlled Substance Prescription Monitoring Program (CSPMP) to verify  
2 doses and/or urine drug testing to confirm the presence of reported prescription narcotic  
3 use.

4 5. On January 19, 2010, an early refill for MSContin and a new prescription for  
5 Dilaudid. Respondent also performed multilevel bilateral cervical facet injections without  
6 imaging, as well as cervical trigger point injections.

7 6. On February 9, 2010, JH received an early refill of MSContin and performed  
8 lumbar intraarticular facet and trigger point injections. Respondent did not document the  
9 patient's response to previous injections in terms of pain or function.

10 7. On March 9, 2010, Respondent provided prescriptions for MSContin,  
11 Oxycodone, and Xanax. Respondent also performed lumbar intraarticular facet and trigger  
12 point injections.

13 8. On March 26, 2010, Respondent provided early refills of MSContin and  
14 Oxycodone. Respondent also performed lumbar intraarticular facet and trigger point  
15 injections.

16 9. On April 23, 2010, Respondent provided a refill of MSContin and  
17 Oxycodone. Respondent did not document the response to previous injections.

18 10. On May 11, 2010, Respondent provided an early refill of MSContin and  
19 Oxycodone. Respondent did not see the patient again until December 3, 2010.

20 11. On December 3, 2010, Respondent provided Oxycodone for the patient. On  
21 December 20, 2010, Respondent gave the patient a prescription for Oxycodone, and  
22 performed a lumbar intraarticular facet and trigger point injections.

23 12. Respondent renewed the patient's Oxycodone prescription and performed  
24 the trigger point injections in January, February and April of 2011. Respondent did not  
25

1 document responses to previous injections. At the February and April visits, Respondent  
2 performed lumbar intraarticular facet injections with fluoroscopy as well.

3 13. With respect to patient JH, the standard of care prior to prescribing long term  
4 opioid medications for chronic non-malignant pain requires an appropriate evaluation of  
5 the pain problem including review of past medical records, and a rational initial opioid dose  
6 with consideration as to whether the patient is opioid tolerant.

7 14. Respondent deviated from the standard of care by prescribing long term  
8 opioid medications in his care and treatment of patient JH in the in the absence of any  
9 past medical records or verification of current opioid dosage or tolerance.

10 15. With respect to patient JH, the standard of care when prescribing controlled  
11 substances for chronic non-malignant pain requires a physician to monitor for efficacy and  
12 adverse effects, and to closely monitor for, recognize, and follow up on problems  
13 suggestive of noncompliance or aberrant drug seeking.

14 16. Respondent deviated from the standard of care by failing to recognize and/or  
15 failing to investigate the reason for frequent early narcotic refills by patient JH.

16 17. With respect to patient JH, the standard of care prior for performing facet  
17 related procedure requires appropriate evaluation, examination, diagnostic work up, and to  
18 document improvement in symptoms, function and exam prior to proceeding with repeat  
19 injections.

20 18. Respondent deviated from the standard of care by providing cervical and  
21 lumbar facet injections in the absence of review of records for prior work up, treatment or  
22 imaging and by repeating the facet injections on four occasions in his care and treatment  
23 of patient JH and by repeating the facet injections on multiple occasions without  
24 documenting improvement in symptoms, function or physical exam with previous injections  
25 in patient JH.

1           19. With respect to patient JH, the standard of care requires CT or fluoroscopic  
2 guidance when performing facet joint injections.

3           20. Respondent deviated from the standard of care by failing to use fluoroscopy  
4 for facet injections on four occasions.

5           21. The standard of care regarding scope of practice, performance of spinal  
6 injections, and fluoroscopy requires adequate formal training that meets the standards  
7 required for performance of spinal injections and use of fluoroscopy.

8           22. Respondent deviated from the standard of care regarding scope of practice,  
9 performance of spinal injections, and use of fluoroscopy in that he has had inadequate  
10 formal training the meet the standards required for performance of spinal injections and  
11 use of fluoroscopy.

12          23. Respondent's conduct caused harm by perpetuating drug seeking behavior  
13 evidenced by frequent early refill requests which were repeatedly granted.

14          24. The prescribing pattern has the potential harm of prescription drug abuse,  
15 prescription drug addiction, and accidental prescription drug overdose to include  
16 aspiration, brain damage, and death. Interventional pain management, including facet  
17 injections, by unqualified prescribers presents serious potential harm to patients, including  
18 persistent or worsened pain, bleeding, infection, nerve damage, brain damage, paralysis  
19 or even death.

20          25. According to Respondent, he has altered his practice in the area of pain  
21 management, to include refusal to provide opiate medication in the absence of past  
22 medical record verification and verification of current opiate dosage or tolerance, and close  
23 monitoring of actions suggesting non-compliance or drug-seeking behavior.

26. Board staff negotiated a proposed consent agreement to resolve the quality of care concerns in this case and submitted the draft agreement to the Board at its October 3, 2012 meeting for approval.

27. The Board rejected the proposed Consent Agreement and instructed Board staff to negotiate a new Consent Agreement with the physician to address the deviation from the standard of care identified by the medical consultant concerning Respondent's performance of spinal injections and use of fluoroscopy without adequate training. The Board requested that the Consent Agreement include a probationary period in which Dr. Gomez would be restricted from performing these invasive procedures until such time that he has completed a PACE or CPEP evaluation and any recommended training to demonstrate his competency in performing spinal injections and use of fluoroscopy.

## CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Executive Director may enter into a consent agreement with a physician if there is evidence of danger to the public health and safety pursuant to A.R.S. § 32-1405(C)(25) and § 32-1451(F); A.A.C. R4-16-504.

3. Based on the information in the Board's possession there is evidence that if Respondent were to perform spinal injections in Arizona there would be a danger to the public health and safety.

## ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent shall not perform spinal injections until Respondent applies to the Board and receives permission to do so.

2. This is an interim order and not a final decision by the Board regarding the pending investigative file and as such is subject to further consideration by the Board.

DATED AND EFFECTIVE this 27<sup>th</sup> day of October, 2012.

ARIZONA MEDICAL BOARD

By Amade Rich  
for Lisa S. Wynn  
Executive Director

**CONSENT TO ENTRY OF INTERIM ORDER**

1. Respondent has read and understands this Interim Order for Practice Restriction and Consent to the Same and the stipulated Findings of Fact, Conclusions of Law and Order ("Interim Order"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. Respondent acknowledges and agrees that this Interim Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

3. By consenting to this Interim Order, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Interim Order in its entirety as issued, and waives any other cause of action related thereto or arising from said Interim Order.

4. The Interim Order is not effective until approved and signed by the Executive Director.

5. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended

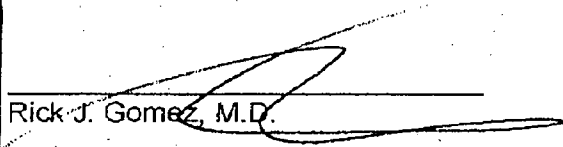
1 or made for any other use, such as in the context of another state or federal government  
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
3 any other state or federal court.

4 6. Upon signing this Interim Order, and returning this document (or a copy  
5 thereof) to the Board's Executive Director, Respondent may not revoke the consent to the  
6 entry of the Interim Order. Respondent may not make any modifications to the document.  
7 Any modifications to this original document are ineffective and void unless mutually  
8 approved by the parties.

9 7. This Interim Order is a public record that will be publicly disseminated as a  
10 formal action of the Board and will be reported to the National Practitioner's Data Bank  
11 and on the Board's web site.

12 8. If any part of the Interim Order is later declared void or otherwise  
13 unenforceable, the remainder of the Interim Order in its entirety shall remain in force and  
14 effect.

15 9. Any violation of this Interim Order constitutes unprofessional conduct and  
16 may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,  
17 probation, consent agreement or stipulation issued or entered into by the board or its  
18 executive director under this chapter") and 32-1451.

19  
20   
21 Rick J. Gomez, M.D.

DATED: 10.24.12

22 EXECUTED COPY of the foregoing mailed  
23 this 24th day of October, 2012 to:

24 Rick J. Gomez, M.D.  
25 Address of Record

Gordon Lewis

1 Jones Skelton & Hochuli, PLC  
2 2901 N. Central, Suite 800  
3 Phoenix, 85012  
4 (Attorney for Respondent)

5 ORIGINAL of the foregoing filed  
6 this 7th day of October, 2012 with:

7 Arizona Medical Board  
8 9545 E. Doubletree Ranch Road  
9 Scottsdale, AZ 85258

10   
11 Arizona Medical Board Staff  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25